



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-93,354-02

IN RE STATE OF TEXAS EX REL. BRENT SMITH, Relator

ON APPLICATION FOR WRIT OF PROHIBITION
IN THE 345TH JUDICIAL DISTRICT COURT OF TRAVIS COUNTY

Per curiam.

ORDER

Relator filed a motion for leave to file and a petition for writ of prohibition invoking our constitutional authority to issue writs of prohibition in criminal law matters. TEX. CONST. art. V, § 5. The petition requests that this Court prohibit the Respondent from issuing and ruling on pre-trial habeas applications filed by defendants confined in Kinney County pursuant to Kinney County misdemeanor charges.

We order that this petition be filed and set for submission to determine: (1) whether, under *Ex parte Valdez*,¹ or other authority, the district court has a ministerial duty to abstain from issuing writs that arise from actions occurring in a distant county; (2) whether, under *Ex parte Valdez*, or

¹ 489 S.W.3d 462 (Tex. Crim. App. 2016).

other authority, the district court has a ministerial duty to abstain from deciding the merits of writ applications that arise from actions occurring in a distant county; and (3) whether it would be a clear abuse of discretion to hold that Texas Code of Criminal Procedure article 11.06 applies to misdemeanor cases, given that indictments are not required in misdemeanor cases. The Relator and the Real Parties in Interest shall brief these issues. We also invite the Travis County District Attorney's Office, the Office of the State Prosecuting Attorney, and the Respondent to brief these issues. All briefs shall be filed with this Court within thirty days from the date of this order.

Filed: May 4, 2022
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